

Exhibit 10

111TH CONGRESS
1ST SESSION

H. R. 3962

AN ACT

To provide affordable, quality health care for all Americans and reduce the growth in health care spending, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 (2) administrative costs and all services offered
2 through such supplemental coverage or plan are paid
3 for using only premiums collected for such coverage
4 or plan; and

5 (3) any nonfederal QHBP offering entity that
6 offers an Exchange-participating health benefits
7 plan that includes coverage for abortions for which
8 funding is prohibited under this section also offers
9 an Exchange-participating health benefits plan that
10 is identical in every respect except that it does not
11 cover abortions for which funding is prohibited
12 under this section.

13 **TITLE III—HEALTH INSURANCE**
14 **EXCHANGE AND RELATED**
15 **PROVISIONS**

16 **Subtitle A—Health Insurance**
17 **Exchange**

18 **SEC. 301. ESTABLISHMENT OF HEALTH INSURANCE EX-**
19 **CHANGE; OUTLINE OF DUTIES; DEFINITIONS.**

20 (a) **ESTABLISHMENT.**—There is established within
21 the Health Choices Administration and under the direc-
22 tion of the Commissioner a Health Insurance Exchange
23 in order to facilitate access of individuals and employers,
24 through a transparent process, to a variety of choices of

1 affordable, quality health insurance coverage, including a
2 public health insurance option.

3 (b) **OUTLINE OF DUTIES OF COMMISSIONER.**—In ac-
4 cordance with this subtitle and in coordination with appro-
5 priate Federal and State officials as provided under sec-
6 tion 243(b), the Commissioner shall—

7 (1) under section 304 establish standards for,
8 accept bids from, and negotiate and enter into con-
9 tracts with, QHBP offering entities for the offering
10 of health benefits plans through the Health Insur-
11 ance Exchange, with different levels of benefits re-
12 quired under section 303, and including with respect
13 to oversight and enforcement;

14 (2) under section 305 facilitate outreach and
15 enrollment in such plans of Exchange-eligible indi-
16 viduals and employers described in section 302; and

17 (3) conduct such activities related to the Health
18 Insurance Exchange as required, including establish-
19 ment of a risk pooling mechanism under section 306
20 and consumer protections under subtitle D of title
21 II.

22 **SEC. 302. EXCHANGE-ELIGIBLE INDIVIDUALS AND EMPLOY-**
23 **ERS.**

24 (a) **ACCESS TO COVERAGE.**—In accordance with this
25 section, all individuals are eligible to obtain coverage

1 enue Code of 1986 (relating to employers elect-
2 ing to not provide health benefits).

3 (C) EXCISE TAX ON FAILURES TO MEET
4 CERTAIN HEALTH COVERAGE REQUIRE-
5 MENTS.—The amounts received in the Treasury
6 under section 4980H(b) (relating to excise tax
7 with respect to failure to meet health coverage
8 participation requirements).

9 (2) APPROPRIATIONS TO COVER GOVERNMENT
10 CONTRIBUTIONS.—There are hereby appropriated,
11 out of any moneys in the Treasury not otherwise ap-
12 propriated, to the Trust Fund, an amount equivalent
13 to the amount of payments made from the Trust
14 Fund under subsection (b) plus such amounts as are
15 necessary reduced by the amounts deposited under
16 paragraph (1).

17 (d) APPLICATION OF CERTAIN RULES.—Rules simi-
18 lar to the rules of subchapter B of chapter 98 of the Inter-
19 nal Revenue Code of 1986 shall apply with respect to the
20 Trust Fund.

21 **SEC. 308. OPTIONAL OPERATION OF STATE-BASED HEALTH**
22 **INSURANCE EXCHANGES.**

23 (a) IN GENERAL.—If—

24 (1) a State (or group of States, subject to the
25 approval of the Commissioner) applies to the Com-

1 missioner for approval of a State-based Health In-
2 surance Exchange to operate in the State (or group
3 of States); and

4 (2) the Commissioner approves such State-
5 based Health Insurance Exchange,

6 then, subject to subsections (c) and (d), the State-based
7 Health Insurance Exchange shall operate, instead of the
8 Health Insurance Exchange, with respect to such State
9 (or group of States). The Commissioner shall approve a
10 State-based Health Insurance Exchange if it meets the re-
11 quirements for approval under subsection (b).

12 (b) REQUIREMENTS FOR APPROVAL.—

13 (1) IN GENERAL.—The Commissioner may not
14 approve a State-based Health Insurance Exchange
15 under this section unless the following requirements
16 are met:

17 (A) The State-based Health Insurance Ex-
18 change must demonstrate the capacity to and
19 provide assurances satisfactory to the Commis-
20 sioner that the State-based Health Insurance
21 Exchange will carry out the functions specified
22 for the Health Insurance Exchange in the State
23 (or States) involved, including—

24 (i) negotiating and contracting with
25 QHBP offering entities for the offering of

1 Exchange-participating health benefits
2 plans, which satisfy the standards and re-
3 quirements of this title and title II;

4 (ii) enrolling Exchange-eligible indi-
5 viduals and employers in such State in
6 such plans;

7 (iii) the establishment of sufficient
8 local offices to meet the needs of Ex-
9 change-eligible individuals and employers;

10 (iv) administering affordability credits
11 under subtitle B using the same meth-
12 odologies (and at least the same income
13 verification methods) as would otherwise
14 apply under such subtitle and at a cost to
15 the Federal Government which does exceed
16 the cost to the Federal Government if this
17 section did not apply; and

18 (v) enforcement activities consistent
19 with Federal requirements.

20 (B) There is no more than one Health In-
21 surance Exchange operating with respect to any
22 one State.

23 (C) The State provides assurances satisfac-
24 tory to the Commissioner that approval of such

1 an Exchange will not result in any net increase
2 in expenditures to the Federal Government.

3 (D) The State provides for reporting of
4 such information as the Commissioner deter-
5 mines and assurances satisfactory to the Com-
6 missioner that it will vigorously enforce viola-
7 tions of applicable requirements.

8 (E) Such other requirements as the Com-
9 missioner may specify.

10 (2) PRESUMPTION FOR CERTAIN STATE-OPER-
11 ATED EXCHANGES.—

12 (A) IN GENERAL.—In the case of a State
13 operating an Exchange prior to January 1,
14 2010, that seeks to operate the State-based
15 Health Insurance Exchange under this section,
16 the Commissioner shall presume that such Ex-
17 change meets the standards under this section
18 unless the Commissioner determines, after com-
19 pletion of the process established under sub-
20 paragraph (B), that the Exchange does not
21 comply with such standards.

22 (B) PROCESS.—The Commissioner shall
23 establish a process to work with a State de-
24 scribed in subparagraph (A) to provide assist-
25 ance necessary to assure that the State's Ex-

1 change comes into compliance with the stand-
2 ards for approval under this section.

3 (c) CEASING OPERATION.—

4 (1) IN GENERAL.—A State-based Health Insur-
5 ance Exchange may, at the option of each State in-
6 volved, and only after providing timely and reason-
7 able notice to the Commissioner, cease operation as
8 such an Exchange, in which case the Health Insur-
9 ance Exchange shall operate, instead of such State-
10 based Health Insurance Exchange, with respect to
11 such State (or States).

12 (2) TERMINATION; HEALTH INSURANCE EX-
13 CHANGE RESUMPTION OF FUNCTIONS.—The Com-
14 missioner may terminate the approval (for some or
15 all functions) of a State-based Health Insurance Ex-
16 change under this section if the Commissioner deter-
17 mines that such Exchange no longer meets the re-
18 quirements of subsection (b) or is no longer capable
19 of carrying out such functions in accordance with
20 the requirements of this subtitle. In lieu of termi-
21 nating such approval, the Commissioner may tempo-
22 rarily assume some or all functions of the State-
23 based Health Insurance Exchange until such time as
24 the Commissioner determines the State-based
25 Health Insurance Exchange meets such require-

1 ments of subsection (b) and is capable of carrying
2 out such functions in accordance with the require-
3 ments of this subtitle.

4 (3) EFFECTIVENESS.—The ceasing or termi-
5 nation of a State-based Health Insurance Exchange
6 under this subsection shall be effective in such time
7 and manner as the Commissioner shall specify.

8 (d) RETENTION OF AUTHORITY.—

9 (1) AUTHORITY RETAINED.—Enforcement au-
10 thorities of the Commissioner shall be retained by
11 the Commissioner.

12 (2) DISCRETION TO RETAIN ADDITIONAL AU-
13 THORITY.—The Commissioner may specify functions
14 of the Health Insurance Exchange that—

15 (A) may not be performed by a State-
16 based Health Insurance Exchange under this
17 section; or

18 (B) may be performed by the Commis-
19 sioner and by such a State-based Health Insur-
20 ance Exchange.

21 (e) REFERENCES.—In the case of a State-based
22 Health Insurance Exchange, except as the Commissioner
23 may otherwise specify under subsection (d), any references
24 in this subtitle to the Health Insurance Exchange or to
25 the Commissioner in the area in which the State-based

1 Health Insurance Exchange operates shall be deemed a
2 reference to the State-based Health Insurance Exchange
3 and the head of such Exchange, respectively.

4 (f) FUNDING.—In the case of a State-based Health
5 Insurance Exchange, there shall be assistance provided for
6 the operation of such Exchange in the form of a matching
7 grant with a State share of expenditures required.

8 **SEC. 309. INTERSTATE HEALTH INSURANCE COMPACTS.**

9 (a) IN GENERAL.—Effective January 1, 2015, 2 or
10 more States may form Health Care Choice Compacts (in
11 this section referred to as “compacts”) to facilitate the
12 purchase of individual health insurance coverage across
13 State lines.

14 (b) MODEL GUIDELINES.—The Secretary of Health
15 and Human Services (in this section referred to as the
16 “Secretary”) shall consult with the National Association
17 of Insurance Commissioners (in this section referred to as
18 “NAIC”) to develop not later than January 1, 2014,
19 model guidelines for the creation of compacts. In devel-
20 oping such guidelines, the Secretary shall consult with
21 consumers, health insurance issuers, and other interested
22 parties. Such guidelines shall—

23 (1) provide for the sale of health insurance cov-
24 erage to residents of all compacting States subject to

1 of costs related to non-service-connected care or services
2 provided by the Secretary of Veterans Affairs to an indi-
3 vidual covered under the public health insurance option
4 in a manner consistent with recovery of costs related to
5 non-service-connected care from private health insurance
6 plans.

7 **Subtitle C—Individual**
8 **Affordability Credits**

9 **SEC. 341. AVAILABILITY THROUGH HEALTH INSURANCE EX-**
10 **CHANGE.**

11 (a) IN GENERAL.—Subject to the succeeding provi-
12 sions of this subtitle, in the case of an affordable credit
13 eligible individual enrolled in an Exchange-participating
14 health benefits plan—

15 (1) the individual shall be eligible for, in accord-
16 ance with this subtitle, affordability credits con-
17 sisting of—

18 (A) an affordability premium credit under
19 section 343 to be applied against the premium
20 for the Exchange-participating health benefits
21 plan in which the individual is enrolled; and

22 (B) an affordability cost-sharing credit
23 under section 344 to be applied as a reduction
24 of the cost-sharing otherwise applicable to such
25 plan; and

1 (2) the Commissioner shall pay the QHBP of-
2 fering entity that offers such plan from the Health
3 Insurance Exchange Trust Fund the aggregate
4 amount of affordability credits for all affordable
5 credit eligible individuals enrolled in such plan.

6 (b) APPLICATION.—

7 (1) IN GENERAL.—An Exchange eligible indi-
8 vidual may apply to the Commissioner through the
9 Health Insurance Exchange or through another enti-
10 ty under an arrangement made with the Commis-
11 sioner, in a form and manner specified by the Com-
12 missioner. The Commissioner through the Health
13 Insurance Exchange or through another public enti-
14 ty under an arrangement made with the Commis-
15 sioner shall make a determination as to eligibility of
16 an individual for affordability credits under this sub-
17 title. The Commissioner shall establish a process
18 whereby, on the basis of information otherwise avail-
19 able, individuals may be deemed to be affordable
20 credit eligible individuals. In carrying this subtitle,
21 the Commissioner shall establish effective methods
22 that ensure that individuals with limited English
23 proficiency are able to apply for affordability credits.

24 (2) USE OF STATE MEDICAID AGENCIES.—If
25 the Commissioner determines that a State Medicaid

1 agency has the capacity to make a determination of
2 eligibility for affordability credits under this subtitle
3 and under the same standards as used by the Com-
4 missioner, under the Medicaid memorandum of un-
5 derstanding under section 305(e)(2)—

6 (A) the State Medicaid agency is author-
7 ized to conduct such determinations for any Ex-
8 change-eligible individual who requests such a
9 determination; and

10 (B) the Commissioner shall reimburse the
11 State Medicaid agency for the costs of con-
12 ducting such determinations.

13 (3) MEDICAID SCREEN AND ENROLL OBLIGA-
14 TION.—In the case of an application made under
15 paragraph (1), there shall be a determination of
16 whether the individual is a Medicaid-eligible indi-
17 vidual. If the individual is determined to be so eligi-
18 ble, the Commissioner, through the Medicaid memo-
19 randum of understanding under section 305(e)(2),
20 shall provide for the enrollment of the individual
21 under the State Medicaid plan in accordance with
22 such Medicaid memorandum of understanding. In
23 the case of such an enrollment, the State shall pro-
24 vide for the same periodic redetermination of eligi-
25 bility under Medicaid as would otherwise apply if the

1 individual had directly applied for medical assistance
2 to the State Medicaid agency.

3 (4) APPLICATION AND VERIFICATION OF RE-
4 QUIREMENT OF CITIZENSHIP OR LAWFUL PRESENCE
5 IN THE UNITED STATES.—

6 (A) REQUIREMENT.—No individual shall
7 be an affordable credit eligible individual (as
8 defined in section 342(a)(1)) unless the indi-
9 vidual is a citizen or national of the United
10 States or is lawfully present in a State in the
11 United States (other than as a nonimmigrant
12 described in a subparagraph (excluding sub-
13 paragraphs (K), (T), (U), and (V)) of section
14 101(a)(15) of the Immigration and Nationality
15 Act).

16 (B) DECLARATION OF CITIZENSHIP OR
17 LAWFUL IMMIGRATION STATUS.—No individual
18 shall be an affordable credit eligible individual
19 unless there has been a declaration made, in a
20 form and manner specified by the Health
21 Choices Commissioner similar to the manner re-
22 quired under section 1137(d)(1) of the Social
23 Security Act and under penalty of perjury, that
24 the individual—

1 (i) is a citizen or national of the
2 United States; or

3 (ii) is not such a citizen or national
4 but is lawfully present in a State in the
5 United States (other than as a non-
6 immigrant described in a subparagraph
7 (excluding subparagraphs (K), (T), (U),
8 and (V)) of section 101(a)(15) of the Im-
9 migration and Nationality Act).

10 Such declaration shall be verified in accordance
11 with subparagraph (C) or (D), as the case may
12 be.

13 (C) VERIFICATION PROCESS FOR CITI-
14 ZENS.—

15 (i) IN GENERAL.—In the case of an
16 individual making the declaration described
17 in subparagraph (B)(i), subject to clause
18 (ii), section 1902(ee) of the Social Security
19 Act shall apply to such declaration in the
20 same manner as such section applies to a
21 declaration described in paragraph (1) of
22 such section.

23 (ii) SPECIAL RULES.—In applying sec-
24 tion 1902(ee) of such Act under clause
25 (i)—

1 (I) any reference in such section
2 to a State is deemed a reference to
3 the Commissioner (or other public en-
4 tity making the eligibility determina-
5 tion);

6 (II) any reference to medical as-
7 sistance or enrollment under a State
8 plan is deemed a reference to provi-
9 sion of affordability credits under this
10 subtitle;

11 (III) a reference to a newly en-
12 rolled individual under paragraph
13 (2)(A) of such section is deemed a ref-
14 erence to an individual newly in re-
15 ceipt of an affordability credit under
16 this subtitle;

17 (IV) approval by the Secretary
18 shall not be required in applying para-
19 graph (2)(B)(ii) of such section;

20 (V) paragraph (3) of such section
21 shall not apply; and

22 (VI) before the end of Y2, the
23 Health Choices Commissioner, in con-
24 sultation with the Commissioner of
25 Social Security, may extend the peri-

1 ods specified in paragraph (1)(B)(ii)
2 of such section.

3 (D) VERIFICATION PROCESS FOR NONCITI-
4 ZENS.—

5 (i) IN GENERAL.—In the case of an
6 individual making the declaration described
7 in subparagraph (B)(ii), subject to clause
8 (ii), the verification procedures of para-
9 graphs (2) through (5) of section 1137(d)
10 of the Social Security Act shall apply to
11 such declaration in the same manner as
12 such procedures apply to a declaration de-
13 scribed in paragraph (1) of such section.

14 (ii) SPECIAL RULES.—In applying
15 such paragraphs of section 1137(d) of such
16 Act under clause (i)—

17 (I) any reference in such para-
18 graphs to a State is deemed a ref-
19 erence to the Health Choices Commis-
20 sioner; and

21 (II) any reference to benefits
22 under a program is deemed a ref-
23 erence to affordability credits under
24 this subtitle.

1 (iii) APPLICATION TO STATE-BASED
2 EXCHANGES.—In the case of the applica-
3 tion of the verification process under this
4 subparagraph to a State-based Health In-
5 surance Exchange approved under section
6 308, section 1137(e) of such Act shall
7 apply to the Health Choices Commissioner
8 in relation to the State.

9 (E) ANNUAL REPORTS.—The Health
10 Choices Commissioner shall report to Congress
11 annually on the number of applicants for af-
12 fordability credits under this subtitle, their citi-
13 zenship or immigration status, and the disposi-
14 tion of their applications. Such report shall be
15 made publicly available and shall include infor-
16 mation on—

17 (i) the number of applicants whose
18 declaration of citizenship or immigration
19 status, name, or social security account
20 number was not consistent with records
21 maintained by the Commissioner of Social
22 Security or the Department of Homeland
23 Security and, of such applicants, the num-
24 ber who contested the inconsistency and
25 sought to document their citizenship or im-

1 migration status, name, or social security
2 account number or to correct the informa-
3 tion maintained in such records and, of
4 those, the results of such contestations;
5 and

6 (ii) the administrative costs of con-
7 ducting the status verification under this
8 paragraph.

9 (F) GAO REPORT.—Not later than the end
10 of Y2, the Comptroller General of the United
11 States shall submit to the Committee on Ways
12 and Means, the Committee on Energy and
13 Commerce, the Committee on Education and
14 Labor, and the Committee on the Judiciary of
15 the House of Representatives and the Com-
16 mittee on Finance, the Committee on Health,
17 Education, Labor, and Pensions, and the Com-
18 mittee on the Judiciary of the Senate a report
19 examining the effectiveness of the citizenship
20 and immigration verification systems applied
21 under this paragraph. Such report shall include
22 an analysis of the following:

23 (i) The causes of erroneous deter-
24 minations under such systems.

1 (ii) The effectiveness of the processes
2 used in remedying such erroneous deter-
3 minations.

4 (iii) The impact of such systems on
5 individuals, health care providers, and Fed-
6 eral and State agencies, including the ef-
7 fect of erroneous determinations under
8 such systems.

9 (iv) The effectiveness of such systems
10 in preventing ineligible individuals from re-
11 ceiving for affordability credits.

12 (v) The characteristics of applicants
13 described in subparagraph (E)(i).

14 (G) PROHIBITION OF DATABASE.—Nothing
15 in this paragraph or the amendments made by
16 paragraph (6) shall be construed as authorizing
17 the Health Choices Commissioner or the Com-
18 missioner of Social Security to establish a data-
19 base of information on citizenship or immigra-
20 tion status.

21 (H) INITIAL FUNDING.—

22 (i) IN GENERAL.—Out of any funds in
23 the Treasury not otherwise appropriated,
24 there is appropriated to the Commissioner
25 of Social Security \$30,000,000, to be avail-

1 able without fiscal year limit to carry out
2 this paragraph and section 205(v) of the
3 Social Security Act.

4 (ii) FUNDING LIMITATION.—In no
5 case shall funds from the Social Security
6 Administration’s Limitation on Adminis-
7 trative Expenses be used to carry out ac-
8 tivities related to this paragraph or section
9 205(v) of the Social Security Act.

10 (5) AGREEMENT WITH SOCIAL SECURITY COM-
11 MISSIONER.—

12 (A) IN GENERAL.—The Health Choices
13 Commissioner shall enter into and maintain an
14 agreement described in section 205(v)(2) of the
15 Social Security Act with the Commissioner of
16 Social Security.

17 (B) FUNDING.—The agreement entered
18 into under subparagraph (A) shall, for each fis-
19 cal year (beginning with fiscal year 2013)—

20 (i) provide funds to the Commissioner
21 of Social Security for the full costs of the
22 responsibilities of the Commissioner of So-
23 cial Security under paragraph (4), includ-
24 ing—

1 (I) acquiring, installing, and
2 maintaining technological equipment
3 and systems necessary for the fulfill-
4 ment of the responsibilities of the
5 Commissioner of Social Security
6 under paragraph (4), but only that
7 portion of such costs that are attrib-
8 utable to such responsibilities; and

9 (II) responding to individuals
10 who contest with the Commissioner of
11 Social Security a reported inconsist-
12 ency with records maintained by the
13 Commissioner of Social Security or
14 the Department of Homeland Security
15 relating to citizenship or immigration
16 status, name, or social security ac-
17 count number under paragraph (4);

18 (ii) based on an estimating method-
19 ology agreed to by the Commissioner of
20 Social Security and the Health Choices
21 Commissioner, provide such funds, within
22 10 calendar days of the beginning of the
23 fiscal year for the first quarter and in ad-
24 vance for all subsequent quarters in that
25 fiscal year; and

1 (iii) provide for an annual accounting
2 and reconciliation of the actual costs in-
3 curred and the funds provided under the
4 agreement.

5 (C) REVIEW OF ACCOUNTING.—The an-
6 nual accounting and reconciliation conducted
7 pursuant to subparagraph (B)(iii) shall be re-
8 viewed by the Inspectors General of the Social
9 Security Administration and the Health Choices
10 Administration, including an analysis of consist-
11 ency with the requirements of paragraph (4).

12 (D) CONTINGENCY.—In any case in which
13 agreement with respect to the provisions re-
14 quired under subparagraph (B) for any fiscal
15 year has not been reached as of the first day
16 of such fiscal year, the latest agreement with
17 respect to such provisions shall be deemed in ef-
18 fect on an interim basis for such fiscal year
19 until such time as an agreement relating to
20 such provisions is subsequently reached. In any
21 case in which an interim agreement applies for
22 any fiscal year under this subparagraph, the
23 Commissioner of Social Security shall, not later
24 than the first day of such fiscal year, notify the
25 appropriate Committees of the Congress of the

1 failure to reach the agreement with respect to
2 such provisions for such fiscal year. Until such
3 time as the agreement with respect to such pro-
4 visions has been reached for such fiscal year,
5 the Commissioner of Social Security shall, not
6 later than the end of each 90-day period after
7 October 1 of such fiscal year, notify such Com-
8 mittees of the status of negotiations between
9 such Commissioner and the Health Choices
10 Commissioner in order to reach such an agree-
11 ment.

12 (E) APPLICATION TO PUBLIC ENTITIES
13 ADMINISTERING AFFORDABILITY CREDITS.—If
14 the Health Choices Commissioner provides for
15 the conduct of verifications under paragraph
16 (4) through a public entity, the Health Choices
17 Commissioner shall require the public entity to
18 enter into an agreement with the Commissioner
19 of Social Security which provides the same
20 terms as the agreement described in this para-
21 graph (and section 205(v) of the Social Security
22 Act) between the Health Choices Commissioner
23 and the Commissioner of Social Security, except
24 that the Health Choices Commissioner shall be
25 responsible for providing funds for the Commis-

1 sioner of Social Security in accordance with
2 subparagraphs (B) through (D).

3 (6) AMENDMENTS TO SOCIAL SECURITY ACT.—

4 (A) COORDINATION OF INFORMATION BE-
5 TWEEN SOCIAL SECURITY ADMINISTRATION AND
6 HEALTH CHOICES ADMINISTRATION.—

7 (i) IN GENERAL.—Section 205 of the
8 Social Security Act (42 U.S.C. 405) is
9 amended by adding at the end the fol-
10 lowing new subsection:

11 “Coordination of Information With Health Choices
12 Administration

13 “(v)(1) The Health Choices Commissioner may col-
14 lect and use the names and social security account num-
15 bers of individuals as required to provide for verification
16 of citizenship under subsection (b)(4)(C) of section 341
17 of the Affordable Health Care for America Act in connec-
18 tion with determinations of eligibility for affordability
19 credits under such section.

20 “(2)(A) The Commissioner of Social Security shall
21 enter into and maintain an agreement with the Health
22 Choices Commissioner for the purpose of establishing, in
23 compliance with the requirements of section 1902(ee) as
24 applied pursuant to section 341(b)(4)(C) of the Affordable
25 Health Care for America Act, a program for verifying in-

1 formation required to be collected by the Health Choices
2 Commissioner under such section 341(b)(4)(C).

3 “(B) The agreement entered into pursuant to sub-
4 paragraph (A) shall include such safeguards as are nec-
5 essary to ensure the maintenance of confidentiality of any
6 information disclosed for purposes of verifying information
7 described in subparagraph (A) and to provide procedures
8 for permitting the Health Choices Commissioner to use
9 the information for purposes of maintaining the records
10 of the Health Choices Administration.

11 “(C) The agreement entered into pursuant to sub-
12 paragraph (A) shall provide that information provided by
13 the Commissioner of Social Security to the Health Choices
14 Commissioner pursuant to the agreement shall be provided
15 at such time, at such place, and in such manner as the
16 Commissioner of Social Security determines appropriate.

17 “(D) Information provided by the Commissioner of
18 Social Security to the Health Choices Commissioner pur-
19 suant to an agreement entered into pursuant to subpara-
20 graph (A) shall be considered as strictly confidential and
21 shall be used only for the purposes described in this para-
22 graph and for carrying out such agreement. Any officer
23 or employee or former officer or employee of the Health
24 Choices Commissioner, or any officer or employee or
25 former officer or employee of a contractor of the Health

1 Choices Commissioner, who, without the written authority
2 of the Commissioner of Social Security, publishes or com-
3 municates any information in such individual's possession
4 by reason of such employment or position as such an offi-
5 cer shall be guilty of a felony and, upon conviction thereof,
6 shall be fined or imprisoned, or both, as described in sec-
7 tion 208.

8 “(3) The agreement entered into under paragraph (2)
9 shall provide for funding to the Commissioner of Social
10 Security consistent with section 341(b)(5) of Affordable
11 Health Care for America Act.

12 “(4) This subsection shall apply in the case of a pub-
13 lic entity that conducts verifications under section
14 341(b)(4) of the Affordable Health Care for America Act
15 and the obligations of this subsection shall apply to such
16 an entity in the same manner as such obligations apply
17 to the Health Choices Commissioner when such Commis-
18 sioner is conducting such verifications.”.

19 (ii) CONFORMING AMENDMENT.—Sec-
20 tion 205(e)(2)(C) of such Act (42 U.S.C.
21 405(e)(2)(C)) is amended by adding at the
22 end the following new clause:

23 “(x) For purposes of the administration of the
24 verification procedures described in section 341(b)(4) of
25 the Affordable Health Care for America Act, the Health

1 Choices Commissioner may collect and use social security
2 account numbers as provided for in section 205(v)(1).”.

3 (B) IMPROVING THE INTEGRITY OF DATA
4 AND EFFECTIVENESS OF SAVE PROGRAM.—Sec-
5 tion 1137(d) of the Social Security Act (42
6 U.S.C. 1320b–7(d)) is amended by adding at
7 the end the following new paragraphs:

8 “(6)(A) With respect to the use by any agency of the
9 system described in subsection (b) by programs specified
10 in subsection (b) or any other use of such system, the
11 United States Citizenship and Immigration Services and
12 any other agency charged with the management of the sys-
13 tem shall establish appropriate safeguards necessary to
14 protect and improve the integrity and accuracy of data
15 relating to individuals by—

16 “(i) establishing a process through which such
17 individuals are provided access to, and the ability to
18 amend, correct, and update, their own personally
19 identifiable information contained within the system;

20 “(ii) providing a written response, without
21 undue delay, to any individual who has made such
22 a request to amend, correct, or update such individ-
23 ual’s own personally identifiable information con-
24 tained within the system; and

1 “(iii) developing a written notice for user agen-
2 cies to provide to individuals who are denied a ben-
3 efit due to a determination of ineligibility based on
4 a final verification determination under the system.

5 “(B) The notice described in subparagraph (A)(ii)
6 shall include—

7 “(i) information about the reason for such no-
8 tice;

9 “(ii) a description of the right of the recipient
10 of the notice under subparagraph (A)(i) to contest
11 such notice;

12 “(iii) a description of the right of the recipient
13 under subparagraph (A)(i) to access and attempt to
14 amend, correct, and update the recipient’s own per-
15 sonally identifiable information contained within
16 records of the system described in paragraph (3);
17 and

18 “(iv) instructions on how to contest such notice
19 and attempt to correct records of such system relat-
20 ing to the recipient, including contact information
21 for relevant agencies.”.

22 (C) STREAMLINING ADMINISTRATION OF
23 VERIFICATION PROCESS FOR UNITED STATES
24 CITIZENS.—Section 1902(ee)(2) of the Social

1 Security Act (42 U.S.C. 1396a(ee)(2)) is
2 amended by adding at the end the following:

3 “(D) In carrying out the verification procedures
4 under this subsection with respect to a State, if the Com-
5 missioner of Social Security determines that the records
6 maintained by such Commissioner are not consistent with
7 an individual’s allegation of United States citizenship,
8 pursuant to procedures which shall be established by the
9 State in coordination with the Commissioner of Social Se-
10 curity, the Secretary of Homeland Security, and the Sec-
11 retary of Health and Human Services—

12 “(i) the Commissioner of Social Security shall
13 inform the State of the inconsistency;

14 “(ii) upon being so informed of the inconsis-
15 tency, the State shall submit the information on the
16 individual to the Secretary of Homeland Security for
17 a determination of whether the records of the De-
18 partment of Homeland Security indicate that the in-
19 dividual is a citizen;

20 “(iii) upon making such determination, the De-
21 partment of Homeland Security shall inform the
22 State of such determination; and

23 “(iv) information provided by the Commissioner
24 of Social Security shall be considered as strictly con-
25 fidential and shall only be used by the State and the

1 Secretary of Homeland Security for the purposes of
2 such verification procedures.

3 “(E) Verification of status eligibility pursuant to the
4 procedures established under this subsection shall be
5 deemed a verification of status eligibility for purposes of
6 this title, title XXI, and affordability credits under section
7 341(b)(4) of the Affordable Health Care for America Act,
8 regardless of the program in which the individual is apply-
9 ing for benefits.”.

10 (c) USE OF AFFORDABILITY CREDITS.—

11 (1) IN GENERAL.—In Y1 and Y2 an affordable
12 credit eligible individual may use an affordability
13 credit only with respect to a basic plan.

14 (2) FLEXIBILITY IN PLAN ENROLLMENT AU-
15 THORIZED.—Beginning with Y3, the Commissioner
16 shall establish a process to allow an affordability
17 premium credit under section 343, but not the af-
18 fordability cost-sharing credit under section 344, to
19 be used for enrollees in enhanced or premium plans.
20 In the case of an affordable credit eligible individual
21 who enrolls in an enhanced or premium plan, the in-
22 dividual shall be responsible for any difference be-
23 tween the premium for such plan and the afford-
24 ability credit amount otherwise applicable if the indi-
25 vidual had enrolled in a basic plan.

1 (d) ACCESS TO DATA.—In carrying out this subtitle,
2 the Commissioner shall request from the Secretary of the
3 Treasury consistent with section 6103 of the Internal Rev-
4 enue Code of 1986 such information as may be required
5 to carry out this subtitle.

6 (e) NO CASH REBATES.—In no case shall an afford-
7 able credit eligible individual receive any cash payment as
8 a result of the application of this subtitle.

9 **SEC. 342. AFFORDABLE CREDIT ELIGIBLE INDIVIDUAL.**

10 (a) DEFINITION.—

11 (1) IN GENERAL.—For purposes of this divi-
12 sion, the term “affordable credit eligible individual”
13 means, subject to subsection (b) and section 346, an
14 individual who is lawfully present in a State in the
15 United States (other than as a nonimmigrant de-
16 scribed in a subparagraph (excluding subparagraphs
17 (K), (T), (U), and (V)) of section 101(a)(15) of the
18 Immigration and Nationality Act)—

19 (A) who is enrolled under an Exchange-
20 participating health benefits plan and is not en-
21 rolled under such plan as an employee (or de-
22 pendent of an employee) through an employer
23 qualified health benefits plan that meets the re-
24 quirements of section 412;